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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,453	01/15/2004	Junichiro Suzuki	031331	5057

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/757,453	Applicant(s) SUZUKI ET AL.	
	Examiner Christopher P. Bruenjes	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

ADVISORY ACTION

REPEATED REJECTIONS

1. The 35 U.S.C. 103 rejections of claims 1-8 over Nishino et al in view of Nishi et al are repeated for the reasons set forth in the previous Office Action mailed November 3, 2005, Pages 3-5 Paragraph 2.

ANSWERS TO APPLICANT'S ARGUMENTS

2. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 1-8 over Nishino in view of Nishi have been fully considered but they are not persuasive.

In response to Applicant's argument that Nishi fails to teach polyester resins having a naphthalene ring as the outer layer, Nishino teaches the first, second and third layers of the claimed fuel hose and the rejection relies on Nishi for the teaching that a functional group is added to the innermost fluororesin layer in order to improve adhesion between the fluororesin layer and non-fluorinated layers since fluororesins are known to have low adhesive properties. Nishi teaches that a functional group added to a fluororesin layer improves the adhesion to multiple thermoplastic materials including polyamides and polyesters. Nishino teaches that the middle

Art Unit: 1772

layer bonded to the fluororesin layer contains polyamide and polyester. Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to add a functional group to the fluororesin layer of Nishino in order to improve the adhesion between the fluororesin layer and the polyamide and polyester containing middle layer of Nishino, since a functional group added to fluororesin improves adhesion to non-fluorinated thermoplastic layers, as taught by Nishi.

In response to Applicant's argument that Nishino does not teach an embodiment in which the innermost layer comprises fluororesin and the adhesive layer between the innermost and the low fuel permeability layer comprises a blend of polyamide and polyester resins, Nishino specifically teaches what the adhesive comprises in cases where the innermost layer is composed of fluorine type resin and the middle layer is composed of a polyalkylene naphthalene resin. In these cases, the adhesive layer comprises a melted mixture of fluorine type resin or rubber and a polyester type resin or elastomer (col.9, 1.27-37). Nishino goes on to teach that in order to obtain a still more uniformly mixed adhesive resin and to increase the adhesive properties thereof, the adhesive layer further comprises a polyamide type elastomer (col.9, 1.37-43). Therefore, the

Art Unit: 1772

adhesive layer of Nishino comprises polyamide resin, and polyester resin, as well as fluororesin. Thus, since the adhesive layer is defined in Applicant's claims with open language of "comprising" the adhesive layer is open any resins as long as the adhesive layer contains the two claimed.

In response to Applicant's argument that Nishi teaches away from a combination with Nishino, both Nishino and Nishi teach multi-layered fuel hoses, and the rejection relies on the Nishino fuel hose with the addition of a functional group to the fluororesin layer of Nishino for improving adhesion between the fluororesin layer of Nishino and the adhesive layer of Nishino since the middle layer of Nishino contains non-fluorinated materials.

In response to Applicant's argument that Nishino does not teach a blend of polyamide and polyester resin for forming the adhesive layer, see the response presented above. Furthermore, the polyamide type elastomer taught in the blend forming the adhesive layer of Nishino reads on the claimed polyamide resin, because a polyamide type elastomer is a polyamide resin, and the claimed invention does not claim that the polyamide resin is specifically polyamide 6 or polyamide 12. Also, Applicant's claimed adhesive layer is claimed in open claim language of "comprising". Therefore, any adhesive layer containing

Art Unit: 1772

polyamide resin and polyester resin reads on the claimed adhesive layer regardless of how many other resins are blended.

In response to Applicant's argument that the fuel hoses of Nishi and Nishino cannot be combined because they are completely different, both teachings are regarding fuel hoses having a fluororesin innermost layer and non-fluorinated outer layers. Therefore, one of ordinary skill in the art at the time Applicant's invention would have looked to both references and would have combined the teachings in order to arrive at a fuel hose with improved adhesion between the innermost fluorinated layer and non-fluorinated outer layers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher P Bruenjes
Examiner
Art Unit 1772

CPB *CPB*
June 28, 2006



WILLIAM P. WATKINS III
PRIMARY EXAMINER